

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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APR 30 11 21 AM '02
CHIEF CLERK'S OFFICE

RURAL ELECTRIC CONVENIENCE)
COOPERATIVE CO., and SOYLAND)
POWER COOPERATIVE, INC.,)

Complainants)

vs.)

DOCKET NO. 01-0675

CENTRAL ILLINOIS PUBLIC SERVICE)
COMPANY d/b/a AMERENCIPS,)

Respondent)

RESPONSE TO MOTION FOR PROPRIETARY TREATMENT
AND TO VACATE ORDER OF THE ADMINISTRATIVE
LAW JUDGE ENTERED APRIL 26, 2002

RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., (RECC) Complainant
by its attorneys GROSBOLL, BECKER, TICE & REIF, Jerry Tice of counsel, herewith files
its Response to the Motion for Proprietary Treatment filed by Intervenor Freeman and Motion
to Vacate Order of Administrative Law Judge entered April 26, 2002, with regard to such
motion and in support thereof states as follows:

1. RECC and Soyland did not receive a copy of the Motion for Proprietary Treatment
filed by Intervenor, Freeman, until Friday, April 26, 2002 by regular U.S. Postal Mail.
2. There was not attached to the Motion for Proprietary Treatment received by RECC
the proposed Proprietary Agreement that Intervenor Freeman requested the Administrative
Law Judge to order all parties and witnesses to execute and therefore RECC has not had an
opportunity to review the terms and conditions sought to be imposed by Intervenor Freeman
with respect to information determined to be proprietary nor the extent of the information

which is sought by Intervenor Freeman to be protected by such Proprietary Agreement/Order.

3. The Administrative Law Judge has entered an Order granting the Motion of Intervenor Freeman with respect to the proprietary treatment of certain information without elaboration and without guidelines to the parties as to the nature, extent, or type of information to be exchanged in discovery that will be allowed to be treated as proprietary by Intervenor Freeman nor has the Administrative Law Judge considered any need for proprietary treatment of information by other parties to this proceeding and whether such needs can best be served by the use of a Protective Order for the purposes of classifying certain information as proprietary and governing the use thereof in the proceedings. The ruling of the Administrative Law Judge simply allows the unlimited power to Intervenor Freeman to mark any and all materials it deems proprietary and subject to protection without further guidelines.

4. There is no absolute right to an order determining certain information to be exchanged in discovery as proprietary information. However, the rules of the Commission 83 Ill Adm. Code Sec. 200.335(a)(1) grant authority to either the Chairman of the Commission or the Administrative Law Judge on their own or at the request of a party to make rulings denying, limiting, conditioning or regulating discovery as justice requires. In furtherance of this authority, the Commission rules in Section 200.370 grant the Administrative Law Judge supervision over discovery but in doing so specifically provide that the Administrative Law Judge should do so in consultation with the parties in order to facilitate a prompt and efficient resolution of discovery issues. The Circuit Court's of this state have long held that once a party files a motion for a protective order, that party is required to set the motion for hearing to give an opportunity to the opposing parties to comment with respect to the same Amoco Oil Co. v Segall 118 Ill App 3d 1002; 455 NE 2d 876; 74 Ill Dec. 447 (4th Dist. 1983).

5. Intervenor Freeman did not seek comment by RECC with respect to the need for the Protective Order in this case or the type, nature or extent of material that Intervenor Freeman felt the need to treat as proprietary and therefore subject to the conditions of a Protective Order nor did Intervenor Freeman provide RECC with a copy of the proposed Protective Order submitted to the Administrative Law Judge for action. In addition there was no attempt by Intervenor Freeman to contact counsel for RECC to discuss the need for such Protective Order which if this had been accomplished would more than likely been resolved by counsel without the need for intervention by the Administrative Law Judge. Finally, Intervenor Freeman did not see fit, contrary to the requirements of fairness, to seek a hearing on its Motion for a Protective Order before the Administrative Law Judge to give RECC an opportunity to comment thereon.

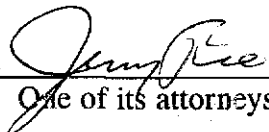
6. The appropriate procedure is for Intervenor Freeman to answer the RECC discovery requests and object to discovery requests which are deemed to require production of protected information. Then the parties can resolve the issue or present the same to the Administrative Law Judge for resolution.

WHEREFORE, RECC requests the Administrative Law Judge to vacate the Order of April 16, 2002 granting Intervenor Freeman what appears to be an absolute and unlimited right to classify information and materials as proprietary pursuant to an Order of Protection which has not been provided to RECC and to set this matter for further hearing for the

purpose of resolving the need and extent for such Protective Order and for such other and further relief as the Commission deems just and equitable.

RURAL ELECTRIC CONVENIENCE
COOPERATIVE, CO., Complainant

By: GROSBOLL, BECKER, TICE & REIF

By: _____
One of its attorneys

GROSBOLL, BECKER, TICE & REIF

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recv:resprotreat675 jurecu

PROOF OF SERVICE

I, JERRY TICE, hereby certify that on the 29 day of April, 2002, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

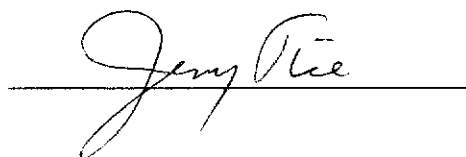
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A handwritten signature in cursive script, reading "Jerry Tice", is written over a horizontal line.